

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:16-cv-73-FDW**

**THIS MATTER** is before the Court sua sponte regarding the filing of a “Motion to Dismiss” by Defendants Warren Bradley, Neil McDonald, and Jim Player. (Doc. No. 11).

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiff, who is proceeding pro se, that he has a right to respond to Defendants' motion.<sup>1</sup> The Court also advises Plaintiff that failure to respond may result in Defendants being granted the relief Defendants seek—that is, the dismissal of the Complaint.

**IT IS, THEREFORE, ORDERED that:**

<sup>1</sup> The Fourth Circuit did not hold in Roseboro that such notice is required for motions to dismiss. Rather, the Fourth Circuit’s discussion in Roseboro regarding notice was directed to summary judgment motions. See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) (“We agree with the plaintiff, however, that there is another side to the coin which requires that the plaintiff be advised of his right to file counter-affidavits or other responsive material and alerted to the fact that his failure to so respond might result in the entry of summary judgment against him.”); see also Norman v. Taylor, 25 F.3d 1259, 1261 (4th Cir. 1994) (“In Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), this circuit held that pro se plaintiffs must be advised that their failure to file responsive material when a defendant moves for summary judgment may well result in entry of summary judgment against them.”). Nevertheless, courts routinely issue Roseboro notices for motions to dismiss, and the Court does so here.

1. Plaintiff shall respond to the pending Motion to Dismiss, (Doc. No. 11), within 14 days of entry of this Order. Failure to file a timely response will likely lead to the dismissal of this lawsuit.
2. The Clerk of Court is directed to send a copy of this Order to the pro se Plaintiff by certified U.S. mail.



Frank D. Whitney  
Chief United States District Judge

